



UNITED STATES
JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

Dec 02, 2009

FILED
CLERK'S OFFICE

**UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION**

**IN RE: BUDEPRION XL MARKETING &
SALES PRACTICES LITIGATION**

MDL No. 2107

TRANSFER ORDER

Before the entire Panel: Defendants¹ in six actions move, pursuant to 28 U.S.C. § 1407, for coordinated or consolidated pretrial proceedings of the actions listed on Schedule A in the Northern District of Texas or, alternatively, the Eastern District of Louisiana.² Plaintiffs in all actions support centralization in the Eastern District of Pennsylvania.

The defendants' motion encompasses an action each in the Central District of California, the Middle District of Florida, the Eastern District of Louisiana, the Eastern District of North Carolina, the Eastern District of Pennsylvania and Northern District of Texas.

On the basis of the papers filed and hearing session held, we find that these six actions involve common questions of fact, and that centralization under Section 1407 in the Eastern District of Pennsylvania will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. All actions involve common factual questions arising from the chemical composition Budeprion XL, which defendants allegedly represented as equivalent to Wellbutrin XL but which purportedly contained an inferior delivery mechanism that causes Budeprion XL to release its active ingredient more rapidly. Plaintiffs contend that Budeprion XL is thus a less effective drug than Wellbutrin XL for treating depression and more likely to cause dangerous side effects. Centralization under Section 1407 will eliminate duplicative discovery; prevent inconsistent pretrial rulings; and conserve the resources of the parties, their counsel and the judiciary.

The Eastern District of Pennsylvania, where the first action filed in federal court is pending, stands out as an appropriate transferee forum. Teva is based in this district, so relevant documents and

¹ Teva Pharmaceuticals USA, Inc. (Teva); Teva Parental Medicines, Inc.; Impax Laboratories, Inc.; and Anchen Pharmaceuticals, Inc.

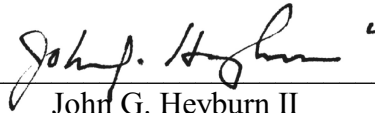
² The parties have notified the Panel of three related actions pending, respectively, in the Southern District of Ohio, the Northern District of Oklahoma and the Western District of Washington. These actions and any other related actions are potential tag-along actions. *See* Rules 7.4 and 7.5, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001).

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witnesses are likely found there. Further, by centralizing the actions before Judge Berle M. Schiller, we are selecting a jurist suitable to steering this litigation on a prudent course.

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, the actions listed on Schedule A and pending outside the Eastern District of Pennsylvania are transferred to the Eastern District of Pennsylvania and, with the consent of that court, assigned to the Honorable Berle M. Schiller for coordinated or consolidated pretrial proceedings with the action listed on Schedule A and pending in that district.

PANEL ON MULTIDISTRICT LITIGATION



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**IN RE: BUDEPRION XL MARKETING & SALES
PRACTICES LITIGATION**

MDL No. 2107

SCHEDULE A

Central District of California

Laura Kelly v. Teva Pharmaceutical Industries Ltd., et al., C.A. No. 2:09-5348

Middle District of Florida

Sherri Henchenski, et al. v. Teva Pharmaceutical Industries Ltd., et al., C.A. No. 2:09-470

Eastern District of Louisiana

Andrew Morgan v. Teva Pharmaceutical Industries Ltd., et al., C.A. No. 2:09-4409

Eastern District of North Carolina

Camilla Snipes Weber v. Teva Pharmaceutical Industries Ltd., et al., C.A. No. 7:09-113

Eastern District of Pennsylvania

Steven Rosenfeld v. Teva Pharmaceuticals USA, Inc., et al., C.A. No. 2:09-2811

Northern District of Texas

Theresa L. Anderson v. Teva Pharmaceutical Industries Ltd., et al., C.A. No. 3:09-1200